

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION

FILED  
04 MAR 30 PM 3:58  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

MARK EDWARD BUSH,

Plaintiff,

v.

UNITED STATES DISTRICT COURT,  
NORTHERN DISTRICT OF ALABAMA,

Defendant.

CV 03-AR-3322-S

ENTERED

MAR 30 2004

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on March 12, 2004, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed for failing to state a claim upon which relief can be granted under 28 U.S.C. § 1915A(b), in that the plaintiff seeks habeas relief in a §1983 action. The plaintiff filed objections, in which he states that he did not intend to file either a habeas or a § 1983 action, rather he merely intended to apply for an appointment of counsel to represent him in a habeas action.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Further, the plaintiff is advised that the court never considers whether to appoint an attorney to represent a habeas petitioner before such a petition is actually filed.

Wherefore, this action is due to be dismissed without prejudice. An appropriate order

7

will be entered.

DONE this 30<sup>th</sup> day of March, 2004.

A handwritten signature in black ink, appearing to read "William M. Acker, Jr.", written over a horizontal line.

William M. Acker, Jr.  
Senior United States District Judge